

1 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
2 MONTANA, BUTTE DIVISION

3
4 KEVIN BRIGGS,

5 Plaintiff,

6 vs. Case No. 18-0010-BU-BMM-JCL

7 GALLATIN COUNTY AND
8 JOHN DOES 1-8, AS
INDIVIDUALS AND IN THEIR OFFICIAL
CAPACITY AS DETENTION OFFICERS,

9 Defendants.

10
11 DEPOSITION UPON ORAL EXAMINATION OF

12 BRETT SLYNGSTAD

13
14 BE IT REMEMBERED, that the deposition upon oral
examination of BRETT SLYNGSTAD, appearing at the
15 instance of Plaintiff, was taken at
16 510 West Hemlock, Suite B1, Bozeman,
17 Montana 59715 on the 17th day of July
18 2019, beginning at the hour of 11:09 a.m. pursuant
19 to the Federal Rules of Civil Procedure, before
20 Marla Jeske, Court Reporter - Notary Public, CSR.
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<p style="text-align: right;">Page 6</p> <p>1 each other. So if I ask a question, please wait 2 for me to get the entire question out before you 3 provide an answer and, of course, I'll try to wait 4 for your answer before I ask my next question, that 5 way again, we can get everything down and on the 6 record.</p> <p>7 Since this is being transcribed for a 8 written transcript, we want to make sure that any 9 questions that are in the affirmative or the 10 negative, yes or no questions, are answered yes or 11 no. Let's try to avoid huh-uh's or uh-uh's or 12 nodding of head, again so that we can get a clear 13 record.</p> <p>14 If I ask a question that you don't 15 understand or that you need clarification on or 16 have any questions about, please feel free to ask 17 that of me to clarify the question. I want to make 18 sure you understand the question before you provide 19 an answer so that we're both on the same page as 20 far as what we're talking about. Although, if you 21 don't ask for clarification or you don't ask a 22 question or follow up or anything, I'm going to 23 assume you understood the question and then your 24 answer will be relative to the question that I 25 asked.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. And what was your meeting last week? 2 Who was that with? 3 A. That was just to prepare for this. That 4 was with our attorneys. 5 Q. Okay. Did you speak with anybody else 6 besides your attorneys about this deposition? 7 A. No. 8 Q. What documents did you review besides 9 the reports that you completed? 10 A. Everything that we had prepared. I'm 11 not sure if there's an official name given to that, 12 I apologize. But everything that we had prepared 13 for that meeting last week and then just again, 14 like I said, the reports that we have on record for 15 when he was at our facility. 16 Q. Okay. Did you review any audio or video 17 recordings? 18 A. I did not, no. 19 Q. If I can just get a little bit of your 20 background. What's your education background? 21 A. All the way through -- I've done some 22 college, I did not graduate college. And I guess 23 that would be education. 24 Q. Where did you go to school? 25 A. I went some here at MSU and did a little</p>
<p style="text-align: right;">Page 7</p> <p>1 Lastly, this is of course not a -- well, 2 we're not here to see how long you can go sitting 3 in the hot seat. So if you need a break at any 4 given time, feel free to ask for whatever reason. 5 It's not an endurance test. So if you do need a 6 break, just ask. The only thing I do ask that is 7 if I've asked a question, please answer the 8 question before we go to break, okay? 9 A. (Witness nods head.)</p> <p>10 Q. And, of course, I mean we're up against 11 the lunch hour, so if you're okay going through the 12 lunch hour, if we need to. I'm not sure how long 13 this will take but I don't anticipate it's going to 14 take through the end of the day. But if we need a 15 break, go for lunch, you know, if you've got 16 something going on, let me know, okay? 17 A. (Witness nods head.)</p> <p>18 Q. So prior to today I guess in getting 19 prepared for today's deposition, what did you do to 20 prepare for the deposition today? 21 A. I have looked back at the reports that 22 were written for Mr. Briggs and basically looking 23 for the reports that I was involved in, and past 24 that -- and just having a meeting last week. That 25 is really the only thing I've done.</p>	<p style="text-align: right;">Page 9</p> <p>1 bit up in Missoula and then landed back here in 2 Bozeman and then ended up at the sheriff's office. 3 Q. Okay. And outside of MSU and 4 Bozeman -- or excuse me, Missoula, is that 5 University of Montana, Missoula? 6 A. Yes. 7 Q. Have you gone to school or training 8 anywhere else? 9 A. Obviously with my job in law enforcement 10 I've had numerous trainings. But as far as 11 specifically education based like college, no, it 12 was just those two universities. 13 Q. What did you study at MSU and U of M? 14 A. At MSU it was general studies. I 15 did -- I apologize, you're asking me to go way far 16 back. At one point I did journalism and then at 17 another point I did -- I don't remember the exact 18 name but it was basically like -- it wasn't 19 computer science but it was a form of computer 20 science. 21 Q. And then what's your current employment 22 position? 23 A. I'm a detention officer with the 24 Gallatin County Sheriff's Office. 25 Q. And how long have you been doing that?</p>

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<p style="text-align: right;">Page 10</p> <p>1 A. I have been -- that's a little 2 complicated. I have been a detention officer with 3 them for 11 years. I was a deputy with that same 4 office for two years. 5 Q. And just so I'm clear, a deputy with 6 that office? 7 A. A deputy sheriff is basically a sworn, a 8 sworn member of the office. As detention officers 9 we are not sworn. 10 Q. Okay. So as a sworn deputy then you 11 could also, say, work on the streets -- 12 A. Yes. 13 Q. -- and make arrests? 14 A. Yes, and that's typically what we refer 15 to it as is working the street. And that's what I 16 did for two years and then I went back to the jail 17 as a detention officer and I've been doing that for 18 11 years. So in total I've been with the sheriff's 19 office for 13 years. 20 Q. So it was detention, then street, then 21 detention? 22 A. Correct. 23 Q. Any reason for those changes in your -- 24 A. I'm kind of -- I call myself a backwards 25 person. Most people work detention and they go on</p>	<p style="text-align: right;">Page 12</p> <p>1 sheriff's office, what did you do employment-wise? 2 A. I was at the Bozeman Daily Chronicle 3 as a -- I'm trying to remember what they called it. 4 It was a circulation manager. I was in charge of 5 hiring people to get the paper delivered. 6 Q. So in your role now as a detention 7 officer, and I don't want to -- is there a rank or 8 is it officer? 9 A. I'm just an officer. That's fine. 10 Q. Okay. All right. So what's your 11 current role, your daily duties? 12 A. We -- so it's kind of a long role. Do 13 you want me just to start and -- 14 Q. Yeah, so I can understand just in a 15 general sense. 16 A. Okay. So basically show up in the 17 morning, we do head count. That's where we -- we 18 announce head count. We go in. We make sure 19 everybody is where they're supposed to be. Then we 20 go on about -- we pass meals, breakfast. And then 21 between breakfast and lunch we have various 22 programs that come in. We have public defenders 23 that come in wanting to see different people, so 24 programs, public defenders. We do have visitation 25 throughout the day. So that could be in the</p>
<p style="text-align: right;">Page 11</p> <p>1 to the street and that's what I attempted to do and 2 I did get to do that. But I actually like the 3 detention setting better, so I went back. 4 Q. So that's why you went back, was just 5 you enjoyed the work? 6 A. Uh-huh. 7 Q. Why did you enjoy the work more? 8 A. Just, I don't know, the interaction that 9 we have with the inmates. It's a little different 10 than you have with people you encounter on the 11 street, whether it be -- whether you're taking them 12 to jail or whether you're just helping them out 13 changing a flat tire. Just the interaction at the 14 jail I find that -- I don't know, it's just better 15 fitting for me. 16 Q. How so? 17 A. Being able to talk to them about just 18 what's going on I guess, you know, things in their 19 life, you know, why they're back, why they are 20 maybe here for the first time and how maybe we can 21 help them. 22 Q. Do you ever provide any kind of 23 counseling or help that way? 24 A. No, no. It's mainly just conversation. 25 Q. Okay. Prior to your time with the</p>	<p style="text-align: right;">Page 13</p> <p>1 morning, could be in the afternoon, it just really 2 depends where a certain person is housed in the 3 detention center. And then obviously we have 4 court. We have -- court can be very complicated. 5 We -- to keep it simple we have city court and 6 justice court and district court, but a lot of 7 times we can have things like -- we can have a 8 federal court come up where somebody has to come 9 in, pick up an inmate and take them to a certain 10 destination. So those things are -- it's day by 11 day, we don't know. 12 So after lunch we have another lockdown 13 for one hour and then they come off that lockdown 14 and then we go back to more attorneys, more 15 programs. And all throughout the day we do what 16 are called rounds. And every half an hour and 17 every hour we are in the pods interacting with the 18 inmates, just making sure everything is going okay, 19 where they're housed. 20 Q. Do you serve in any sort of 21 administrator or supervisory capacity? 22 A. I do not. 23 Q. Are you familiar with the plaintiff in 24 this case Mr. Kevin Briggs? 25 A. Yes, I am.</p>

<p style="text-align: right;">Page 42</p> <p>1 disciplinary hearing or how does that work out with 2 the witness?</p> <p>3 A. First of all, he's notified and then if 4 he agrees to it, he comes to the hearing and then 5 he can give what he saw or didn't see and he can 6 come to the hearing. They also have the ability to 7 decline and not be a witness if they do not want to 8 be a witness and that is up to the inmate.</p> <p>9 Q. Okay. So you're saying the inmate has 10 the ability to decline?</p> <p>11 A. The person who has been called as a 12 witness.</p> <p>13 Q. Okay. Does the disciplinary team 14 though, are they obligated to bring in the 15 witnesses, back in 2015 I understand. We'll keep 16 it in 2015.</p> <p>17 A. Again, I wasn't a member of the 18 disciplinary team, but. Unless there was some 19 outstanding reason, I -- I don't know why they 20 wouldn't be unless there was a reason for it.</p> <p>21 Q. If an inmate wanted a witness and the 22 witness wasn't called, would you let the inmate or 23 the witness know why that witness wasn't called?</p> <p>24 A. Again, I can't really answer that not 25 being on the disciplinary team. I apologize, I</p>	<p style="text-align: right;">Page 44</p> <p>1 A. This is to let the inmate know of what 2 they are being charged with or what rule they have 3 allegedly broken at the detention center and that 4 they are -- eventually they're going to have a 5 hearing and this is what is going to be presented 6 to the disciplinary team.</p> <p>7 Q. Okay. So on the front page here I'm 8 looking at --</p> <p>9 A. Uh-huh.</p> <p>10 Q. -- it says reporting officer on this one 11 for a 2-8-15 and 2-11-15, so that would be Officer 12 Waliser?</p> <p>13 A. Uh-huh.</p> <p>14 Q. Is that correct?</p> <p>15 A. That is.</p> <p>16 Q. So other inmates involved would be 17 Mr. Steele, it looks like?</p> <p>18 A. Uh-huh.</p> <p>19 Q. And then at the bottom there's some 20 signatures?</p> <p>21 A. Yep.</p> <p>22 Q. It looks like Mr. Briggs is the inmate 23 signature?</p> <p>24 A. Uh-huh.</p> <p>25 Q. It says hearing officer, do you know</p>
<p style="text-align: right;">Page 43</p> <p>1 just don't have enough knowledge of the exact 2 disciplinary functions just because what I did, 3 more or less, is I either wrote the disciplinary 4 report or I proof read them if an officer wrote one 5 to make sure it was okay and fit the bill and 6 signed off on it, but I didn't -- I wasn't in 7 charge of the disciplinary team to make sure their 8 policies and procedures were sound and up to speed. 9 I don't know enough about their policies and 10 procedures.</p> <p>11 Q. Okay. I'm going to hand you 12 here -- this is -- what exhibit are we up to? This 13 is 6. We'll mark this as Exhibit 6 here.</p> <p>14 Do you recognize this document which 15 we'll mark as Exhibit 6?</p> <p>16 (Whereupon, Deposition 17 Exhibit Number 6 was 18 marked for identification.)</p> <p>19 THE WITNESS: Uh-huh, I do.</p> <p>20 BY MR. BIDDULPH:</p> <p>21 Q. And what is this document?</p> <p>22 A. It's a major rule infraction or a report 23 of a major rule infraction, excuse me.</p> <p>24 Q. Okay. So what's the purpose of this 25 document?</p>	<p style="text-align: right;">Page 45</p> <p>1 whose signature that is?</p> <p>2 A. That is my signature.</p> <p>3 Q. Okay. So then would you have presented 4 this report to Mr. Briggs?</p> <p>5 A. Yes, I would have.</p> <p>6 Q. Okay. And this would have been done 7 prior to his hearing?</p> <p>8 A. Yes, prior to. This would have made him 9 aware of it.</p> <p>10 Q. So this is the notice document 11 basically?</p> <p>12 A. Uh-huh, yep.</p> <p>13 Q. I see, thank you.</p> <p>14 So then on the second page there's a 15 report attached?</p> <p>16 A. Uh-huh.</p> <p>17 Q. And I'm assuming because on the front 18 page it says "Description of Incident: See report."</p> <p>19 A. I'm sorry, can you say that last part 20 again, description of?</p> <p>21 Q. Excuse me, yeah. So on the Major Rule 22 Infraction Report page, under description of 23 incident it says "see report"?</p> <p>24 A. Oh, yes, yes. I'm sorry, yeah.</p> <p>25 Q. And then the next page it looks like</p>

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<p>1 correct?</p> <p>2 A. Yes, it is from me.</p> <p>3 Q. It says to Jason Jarrett?</p> <p>4 A. Uh-huh.</p> <p>5 Q. And who is Jason Jarrett?</p> <p>6 A. He is the jail administrator.</p> <p>7 Q. And the subject line states?</p> <p>8 A. Disciplinary grievance.</p> <p>9 Q. Okay. And so this is basically your response to Mr. -- excuse me, Lieutenant Jarrett --</p> <p>10 A. Uh-huh.</p> <p>11 Q. -- about disciplinary grievance?</p> <p>12 So can you please read the body of that e-mail?</p> <p>13 A. Yeah. "Due to what video footage shows, I recommend the following: Fighting/physical force be amended to rude and/or disrespectful to inmate and his lockdown time be amended to 10 days. Briggs was placed on lockdown on April 27th until May 4th where he was moved to Ad Seg. He has served 7 of his 10 days, should he come off of Ad Seg, he will have 3 days of disciplinary lockdown remaining to serve."</p> <p>14 Q. So it looks like you did review the video as part of a grievance or an appeal?</p>	<p>1 hearing, the disciplinary hearing?</p> <p>2 A. No, not prior to the hearing. I mean at the hearing where he tells us that, yes.</p> <p>3 Q. Did Mr. Briggs provide his version of the events?</p> <p>4 A. At the hearing, yes. That's where they're given their opportunity to.</p> <p>5 Q. But did he provide them?</p> <p>6 A. Yes, I would assume he did. I don't recall exactly.</p> <p>7 Q. Okay. And that's why I want to be clear.</p> <p>8 A. Yeah.</p> <p>9 Q. If you don't recall or he didn't?</p> <p>10 A. I do not recall exactly, I apologize.</p> <p>11 Q. That's okay. I'm just trying to be clear for the record.</p> <p>12 A. No, it's fine.</p> <p>13 Q. Yeah, we don't want to put words in your mouth.</p> <p>14 A. Nope, I understand.</p> <p>15 Q. Did you speak with any other inmates about this April incident?</p> <p>16 A. No, sir.</p> <p>17 Q. Did you speak with Inmate Smith about</p>
<p>1 A. Yes, sir, I did.</p> <p>2 Q. Okay. And your finding then was I guess fighting/physical force should be amended to rude or disrespectful?</p> <p>3 A. Yes, sir. That is correct.</p> <p>4 Q. Do you recall why you made that recommendation?</p> <p>5 A. I would assume that -- as we looked at the video closer, I would assume that the video footage showed that it was what the e-mail says, that the fighting/physical force probably wasn't there and so we just amended down to again what it says, and that his lockdown time be amended appropriately.</p> <p>6 Q. And do you recall what Mr. Briggs did that was rude or disrespect to Mr. Smith?</p> <p>7 A. I do not.</p> <p>8 Q. Did you speak with Mr. Briggs at all about his role in this incident?</p> <p>9 A. I'm sure I let him know that this was being amended. Prior to this I -- short of the hearing, I don't recall.</p> <p>10 Q. Did you ever -- did you ever I mean speak with Mr. Briggs about, let's say, his version of the events or side of the story prior to the</p>	<p>1 this incident?</p> <p>2 A. Again, at the hearing but not prior to.</p> <p>3 Q. At --</p> <p>4 A. At his hearing.</p> <p>5 Q. Oh, at Smith's hearing?</p> <p>6 A. Yes, yes.</p> <p>7 Q. Thank you.</p> <p>8 And do you recall what Inmate Smith said?</p> <p>9 A. No, sir, I do not.</p> <p>10 Q. And you don't recall talking to Mr. Smith at any time or at his hearing I guess?</p> <p>11 A. Not -- not like in conversation of what we would. I mean we would have talked about the incident, but I don't recall what he said or what he didn't say exactly.</p> <p>12 Q. Did you ever write a narrative of what Mr. Smith told you?</p> <p>13 A. Are you asking like during the hearing?</p> <p>14 Q. At any time.</p> <p>15 A. No, sir. Short of -- and it wasn't me that wrote the report. It would have been the officer's report of what happened. But short of that, any conversation wouldn't have been recorded, I guess is the word.</p>

<p style="text-align: right;">Page 78</p> <p>1 Q. Okay. I'm going to hand you another 2 couple of documents I'll enter as Exhibit 13. 3 (Whereupon, Deposition 4 Exhibit Number 13 was 5 marked for identification.)</p> <p>6 BY MR. BIDDULPH:</p> <p>7 Q. Do you recall forwarding an e-mail to 8 Jamie Young, what's contained on the second page of 9 Exhibit 13?</p> <p>10 A. I don't recall this. I mean if it's 11 here, it obviously took place. I'm not disputing 12 that but, I just don't recall it.</p> <p>13 Q. Do you recall meeting with Inmate Smith?</p> <p>14 A. If we pulled him out of the pod, myself 15 and Officer Taylor, to talk to him then we would 16 have. I just don't -- I don't have the memory in 17 my mind that hey, we did this on this day. I just 18 don't have that.</p> <p>19 Q. Sure. And I mean as part of this it 20 says on April 28 you and Officer Taylor --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- discussed a disciplinary matter with 23 Inmate Smith. Was this Inmate Smith's disciplinary 24 hearing --</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 80</p> <p>1 able to see where the black eye came from. He said 2 it was from the rec yard. The rec yard video 3 footage didn't show us anything that hey, he got a 4 black eye in the rec yard. So we were like well, 5 where did that come from? We didn't know. Now I 6 don't think we ever did find out, if memory serves.</p> <p>7 Now we have an inmate saying that he 8 wants to get hit, and this is not us saying that we 9 believe this inmate, but then we also have 10 Mr. Briggs, who's been involved in two other fights 11 with Mr. Steele and Mr. Smith and this time. So at 12 that point in time it's okay, if he's not 13 integrating well into general population, what else 14 can we do in the interest of his personal safety. 15 And at the time the only thing we had at that point 16 was administration segregation and --</p> <p>17 Q. So --</p> <p>18 A. I'm sorry.</p> <p>19 Q. No, go ahead.</p> <p>20 A. I just think that's what this e-mail is 21 is -- maybe I'm wrong, but I do know I sent another 22 e-mail to -- whether it was JJ or Jamie, about 23 whether it was this time or another time. It was 24 like Ad Seg might be the best route to go for now, 25 and until the further time during one of our team</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. -- or was this part of an investigation?</p> <p>2 A. This would have been more of an 3 investigation. We wouldn't have held the hearing 4 at the door of another pod. We hold that in a 5 separate room altogether.</p> <p>6 Q. And the last paragraph -- and I'm just 7 going to read it -- says, "Due to this being the 8 third injury that Briggs has sustained while 9 incarcerated and the questionable nature of these 10 injuries, it is my recommendation that Briggs be 11 placed on Administrative Segregation for his own 12 personal safety."</p> <p>13 Why did you think that his injuries were 14 questionable?</p> <p>15 A. There was one -- I don't recall, oh, 16 Exhibit 11 --</p> <p>17 Q. Uh-huh.</p> <p>18 A. -- Officer Eckhardt wrote up a report 19 about -- well, actually wrote him up. It would 20 have been a minor -- or I'm sorry, it was a major, 21 but it was for making a false statement about a 22 black eye, something there. We had the two 23 instances, one with Steele, then we had the one 24 with Smith, about the fights. So we were beginning 25 to see this pattern of -- we didn't -- we weren't</p>	<p style="text-align: right;">Page 81</p> <p>1 meetings then we'll see what bridge we can cross 2 there.</p> <p>3 Q. So then you were saying to put him in 4 Ad Seg because he was assaulted twice by Mr. Steele 5 and once by Mr. Smith?</p> <p>6 A. It wasn't who was doing it or whatnot, 7 it was the pattern that was emerging. It was 8 wherever we put him, whether it was in DPOD or 9 EPOD, he was getting hurt. Whether it was if he 10 was instigating the fight or if somebody else was 11 instigating a fight with him, something was going 12 on as to where he wasn't meshing well with that 13 population and so we had to look at other ways of 14 keeping him safe while he was at the jail. And at 15 the time the only thing we had -- because of all of 16 our other pods being full, the only thing we had 17 was Ad Seg.</p> <p>18 Q. Was CPOD ever considered?</p> <p>19 A. No, it was not.</p> <p>20 Q. Why not?</p> <p>21 A. It just never came up during our team 22 meetings. It was never thought of to put him in 23 CPOD. He didn't fit that criteria.</p> <p>24 Q. I guess why didn't he fit that criteria?</p> <p>25 A. It just -- it never came up in</p>

<p style="text-align: right;">Page 82</p> <p>1 conversation to put him in CPOD. It never did. In 2 the team meetings it was never even discussed. 3 Q. Did you ever hear or did you ever hear 4 of Mr. Smith or Mr. Steele taunting Mr. Briggs? 5 A. I didn't, no, sir. 6 Q. Did you ever hear Mr. Steele or 7 Mr. Smith making fun or name calling Mr. Briggs? 8 A. No, sir. 9 Q. Did you ever hear of either of those two 10 men threatening Mr. Briggs at any point? 11 A. No, sir. 12 Q. I'm just curious your thoughts on if the 13 video was reviewed prior to his disciplinary 14 hearing and he was found guilty of fighting, why 15 wasn't that amended down a few weeks later to rude 16 or disrespectful after reviewing the video? Does 17 that make sense? 18 A. I see the question. I understand what 19 you're getting at. But without going back and 20 actually seeing the video, because I don't even 21 recall what's in the video, and without going back 22 and having the conversations I probably had with 23 both JJ and Jamie, I can't answer that. I just 24 don't remember those specifics. 25 Q. I guess and, you know, to put it more</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. So what information would you then need 2 to make that determination that Mr. Briggs was 3 guilty of fighting? 4 A. There would be video footage of that. 5 Something had to have happened with him sitting at 6 that table, whether it was an inmate coming up and 7 him responding to that inmate or I think that might 8 have been the incident where he might have thrown 9 the food and that inmate responded or whatever that 10 was. That's the type of information we're looking 11 at when we look at that video. 12 Q. If Mr. Briggs just didn't enter a plea, 13 should he be found guilty on that solely? 14 A. I'm sorry, can you -- 15 Q. Let me rephrase that. 16 If Mr. Briggs did not -- well, 17 Mr. Briggs didn't enter a plea at this hearing -- 18 A. Okay. 19 Q. -- would you agree with that? 20 A. I don't believe he did, no. 21 Q. So should that be the sole reason for 22 him being found guilty? 23 A. It has been for other inmates in the 24 past. I'm not saying it should be for Mr. Briggs. 25 It all depends on what's in the evidence. So</p>
<p style="text-align: right;">Page 83</p> <p>1 succinct is, if the video doesn't show him striking 2 Mr. Smith, why was he found guilty of fighting? 3 A. Often times we have people that are 4 found guilty of fighting even though they don't 5 throw a punch because they're still involved in the 6 fight. We tell people at the jail all the time, if 7 there is going to be an issue, you need to go to 8 your cell and lockdown. Let us know that. We have 9 the intercom that I was telling you about. 10 Lockdown in your cell, hit the intercom, tell us 11 there's an issue and we'll come in and deal with 12 it. So just because somebody does not throw a 13 punch, does not mean that they're not guilty of 14 fighting. 15 Q. All right. I guess, you know, just in 16 review of Mr. Lauchnor's report, it sounds like 17 Mr. Briggs was just sitting at a table eating lunch 18 when Mr. Smith struck him? 19 A. I understand. 20 Q. So what was Mr. Briggs' role in the 21 fight? 22 A. And again, without having that 23 information presented again, I can't guess that 24 right now. I just don't recall that specific 25 information.</p>	<p style="text-align: right;">Page 85</p> <p>1 again, without looking at that specific 2 information, I can't really say yes or no because a 3 lot of that evidence leads one way or the other, if 4 that makes sense. 5 Q. Yeah. And so you're saying though you 6 would still review the evidence? 7 A. Absolutely. 8 Q. And that determination would be made 9 based on the evidence? 10 A. Absolutely. 11 Q. Not just based on -- 12 A. Not just -- 13 Q. -- an inmate not entering a plea or 14 remaining silent? 15 A. Yes, sir. Yes, sir. 16 Q. So Mr. Briggs was placed in 17 Administrative Segregation after this; is that 18 correct, it's your understanding? 19 A. I don't remember the exact dates, but I 20 do know that he did go back to APOD after one of 21 his fights. I do know that. I don't remember if 22 it was this specific one. 23 Q. Well, after April when you made this 24 recommendation on May 3rd-ish or April 28th -- 25 A. Okay.</p>

<p style="text-align: right;">Page 86</p> <p>1 Q. -- he remained in Administrative 2 Segregation, would you agree with that? 3 A. I know he went back to APOD, yes. 4 Q. Do you know why he was placed in 5 Administrative Segregation? 6 A. I know this is probably part of it, the 7 fighting and whatnot. Past that, I do not know. I 8 mean obviously to keep him safe because we were 9 seeing the pattern that I was just talking about. 10 Past those instances, no, sir, I do not. 11 Q. Was there a concern that he was 12 suicidal? 13 A. He had made those attempts before, but I 14 don't think -- I don't want to say "think." It 15 wasn't brought up in the team meeting that those 16 concerns were still there. I don't recall him 17 making those threats when he was put back in APOD. 18 Q. Was there ever a concern -- kind 19 of going off of I guess this statement of 20 Mr. Smith -- that Mr. Briggs being assaulted in 21 detention would be beneficial to his case? 22 A. I remember it being talked about at a 23 team meeting, but to what extent I don't recall. 24 But I do remember it coming up. 25 Q. Was there ever a concern of him, say,</p>	<p style="text-align: right;">Page 88</p> <p>1 they're doing and that's what's discussed every 2 week, to see if they're progressing along and 3 that's what's discussed that Monday. And then they 4 come back that next Monday and say, okay, how we 5 doing? Are we ready to go to DPOD or EPOD and so 6 on and so forth? So yes, it was discussed like how 7 do we feel about here and then it might be well, 8 no, let's do another week. But it's not really a 9 set, well, he hasn't done this or that yet, if that 10 makes sense? There's not really a direct one or 11 two things he can do or can't do. It's more of 12 observation and what are the officers seeing when 13 they're interacting with him. 14 Q. So then do you know why Mr. Briggs 15 remained in Ad Seg? 16 A. I would assume that the team meeting 17 felt that he was not ready to move to those pods 18 yet. 19 Q. But I mean, looking at objective 20 reasons, why was he not able to move to those pods? 21 A. I can't answer for the jail 22 administrator. 23 Q. Is that solely up to the jail 24 administrator? 25 A. Where they move from Ad Seg, yes, it is</p>
<p style="text-align: right;">Page 87</p> <p>1 appearing in court with a black eye or an injury? 2 A. That I do not recall. 3 Q. Do you recall ever being part of a 4 search of Mr. Briggs' cell? 5 A. I'm sorry, a search of his cell? 6 Q. A search of his cell, yeah. 7 A. Off the top of my head, no, I do not 8 recall. It is entirely possible though that I was 9 because we've searched lots of cells. 10 Q. Sure. I believe this would have taken 11 place in 2014, not 2015. 12 A. Okay. Yeah, again, it's entirely 13 possible. But to immediately answer, I would say 14 no, I do not recall it. 15 Q. Did you ever sit in on -- well, I guess 16 you were part of these team meetings when 17 Mr. Briggs was in Ad Seg? 18 A. Yes, sir. 19 Q. Was it ever discussed in those team 20 meetings what Mr. Briggs needed to do to get off Ad 21 Seg? 22 A. That's actually -- that's not really a 23 yes or no question. There isn't really one or two 24 set things that a person does to get off Ad Seg. 25 It's more of they're being observed to see how</p>	<p style="text-align: right;">Page 89</p> <p>1 up to him. The team meeting can make the 2 recommendation, but the decision lies with the jail 3 administrator. 4 Q. And so then would you help me out with 5 that? Does the team make a recommendation and 6 present it to the jail administrator or? 7 A. No, he's at the meetings. 8 Q. Okay. 9 A. Yeah, he's at the meetings. 10 Q. So he has that final say? 11 A. Uh-huh. Yes, sir. 12 Q. So was Mr. Briggs ever put on, say, a 13 behavior plan or any sort of program or plan as to 14 where he could get out of Administrative 15 Segregation? 16 A. Not that I recall. 17 Q. Was he ever given any kind of 18 expectation that, you know, this is what it will 19 take for you to get out of Administrative 20 Segregation? 21 A. I do not recall that either. 22 Q. If Mr. Briggs had, say, a minor 23 violation while he was in Ad Seg, would that be 24 sufficient grounds to keep him there? 25 A. A minor, I mean yes, it could. But most</p>

<p style="text-align: right;">Page 90</p> <p>1 minors do not. 2 MR. BIDDULPH: If we can go off the record 3 for two seconds, would that be all right? Do you 4 want to take a break? 5 THE WITNESS: I need to just use the rest 6 room. 7 (Whereupon, a brief 8 recess was taken.) 9 MR. BIDDULPH: So we're back on the record. 10 BY MR. BIDDULPH: 11 Q. So just for my benefit, reading through 12 some of this there's a term that's called 13 bulldogging. Do you know what bulldogging is? Are 14 you familiar with that? 15 A. It's kind of one person in the pod, an 16 inmate, being in charge of everything else. 17 Q. Uh-huh. And what does that person do, I 18 mean to get that mark? 19 A. They might -- oh, I'm sorry, what do 20 they -- 21 Q. What do they do? How do they bulldog 22 somebody? What are the objectives or observations 23 you have? 24 A. They just kind of -- another term we 25 use, we call them kind of pod boss.</p>	<p style="text-align: right;">Page 92</p> <p>1 cause more problems. If we can't always find that 2 out, we will try and get that victim to another pod 3 because it's not -- it's not going to be conducive 4 to us to put the victim of that into like APOD. 5 That doesn't help us and it's not good to 6 discipline somebody who didn't do anything wrong. 7 So right there I mean we'll try to move them 8 to -- if they're in D, maybe we can move them to 9 EPOD. And if they're in E, maybe we can move them 10 to the other side, and what we have is H or IPOD. 11 Q. So they'd stay in the same level of 12 classification, just a different pod? 13 A. Most of the time, yes, they do stay the 14 same class, we just make an exception of where 15 they're housed and let them go to another pod due 16 to what's happening. 17 Q. Would you ever move them down a pod or, 18 say, move them to CPOD? 19 A. No. 20 Q. Why not? 21 A. Because CPOD again falls under a very 22 special classification -- not classification, 23 excuse me. It just falls under a very special 24 bracket of where we call that special management 25 and those people are -- typically they are going to</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. Uh-huh. 2 A. And that's what we see. But things they 3 just kind of get or that they expect are things 4 like extra food. If they're in a pod that might 5 have a vending machine, maybe somebody who's buying 6 a pop or a candy bar maybe buys them just a pop or 7 a candy bar, just extra little perks here and 8 there, just because they know that that's the guy. 9 And it's just little things like that. And when 10 those things aren't given, it's not that there's a 11 problem right then, right there on that day, but if 12 it doesn't happen for a couple of days in a row or 13 three or four days in a row, maybe there's going to 14 be a problem. Sometimes there's a warning given, 15 sometimes there isn't and then you have an issue. 16 Q. If an inmate is the subject of, say, of 17 somebody that's bulldogging, what typically happens 18 with that inmate who's, let's say, the victim of 19 bulldogging? 20 A. The victim of? 21 Q. Uh-huh. 22 A. Typically we try -- first of all, we try 23 to find out who that person is, the actual person 24 doing the bulldogging because we don't want that 25 person to remain in that pod because it's going to</p>	<p style="text-align: right;">Page 93</p> <p>1 get -- which we've seen in the past, they are 2 victimized by not just people who are bulldogging 3 them but people who are just -- they automatically 4 see, like I said, somebody who is developmentally 5 disabled and they know that I can get maybe extra 6 food off this guy's lunch tray or his dinner tray 7 or I can take the remote from him and watch my TV 8 program, things like that. And they can do it day 9 in, day out, day in, day out and so those people 10 are victimized no matter where they're at, so 11 that's why we have CPOD. The other people, the 12 people that have been bulldogged, they can still 13 stand up for themselves, maybe it's just one 14 instance with one individual person that they were 15 having issues with. The people in CPOD are -- it's 16 a different classification, a different group of 17 people that we're very selective with. 18 Q. If somebody had ever I guess been 19 engaged in bulldogging or anything like that, would 20 they ever be put in CPOD? 21 A. I'm sorry, can you -- 22 Q. If they were labeled somebody who 23 bulldogs other inmates, would they be put in CPOD 24 at any point in time? 25 A. If they were the person doing the</p>

<p style="text-align: right;">Page 94</p> <p>1 bulldogging? 2 Q. Uh-huh. 3 A. No. No, sir. 4 Q. Are inmates ever classified or labeled 5 as a predator? 6 A. When you say "labeled" what exactly do 7 you mean? 8 Q. Well, I mean as part of the 9 classification process an individual is a predator? 10 A. They're not classed that in our system. 11 They're classed, like you said, either high, 12 medium, we have low. And then we do have a section 13 that says special management, but we do not have 14 anything that said predator. 15 Q. Predator is not a label that's ever 16 assigned to an inmate? 17 A. No, sir. 18 Q. Okay. I don't have any other questions. 19 If you do? 20 MR. STACEY: I just got a few I think.</p> <p style="text-align: center;">21</p> <p style="text-align: center;">22 EXAMINATION</p> <p style="text-align: center;">23 BY MR. STACEY:</p> <p>24 Q. Brett, earlier in your deposition you 25 testified about the differences between the</p>	<p style="text-align: right;">Page 96</p> <p>1 booked under whatever charges they are currently in 2 the detention center for. And based on their 3 charges and their criminal history and to behaviors 4 that we have either seen in the past, if we're 5 familiar with them, or that we are seeing at that 6 given point in time, they are classified and that 7 helps us determine where they will be housed in the 8 detention center. 9 Q. Okay. You also answered questions about 10 inmates requesting attorneys prior to disciplinary 11 hearings, do you recall that testimony? 12 A. Yes, sir. 13 Q. And for my own sanity, and I got a 14 little confused, if an inmate requests their 15 attorney prior to, I guess I'll call it an in-house 16 hearing, you guys don't delay the hearing or 17 provide an opportunity for the inmate to get their 18 attorney, do you? 19 A. They get -- we are going to hold the 20 hearing one way or the other. We're not going to 21 wait until their attorney comes in. If their 22 attorney comes in to see them before they go 23 to -- whether it's video court or go to court in 24 person, they have the absolute right to see that 25 attorney and we will afford them that right. But</p>
<p style="text-align: right;">Page 95</p> <p>1 different pods at the detention center, do you 2 recall that testimony? 3 A. Yes, sir. 4 Q. And it's a little beyond the scope of 5 the direct but, is there an another section of the 6 detention center that you didn't cover? 7 A. Mainly what I was talking about is what 8 we call the west side. There is a different side 9 of the detention center called the east side and 10 that's where we have FPOD, GPOD, HPOD and IPOD. 11 Q. Okay. And what are the differences 12 between those? 13 A. So right -- right now F and GPOD -- FPOD 14 is basically what we call them classification or 15 general population females. GPOD is -- it can be 16 special management, but it is most of the time high 17 classification females. HPOD and IPOD are just low 18 security males. 19 Q. And then is booking a separate area of 20 the jail? 21 A. Booking is a separate area, yes. 22 Q. And is there -- what's the difference 23 between booking and the different pods? 24 A. Booking is where new arrests are 25 typically brought in to the booking area. They are</p>	<p style="text-align: right;">Page 97</p> <p>1 if that attorney is trying to be there on behalf of 2 that hearing, that is not afforded to them. Those 3 are two separate things. 4 Q. Okay. And then, say, an inmate has an 5 incident with another inmate and they're charged 6 criminally for whatever they did prior to any 7 criminal proceedings, do you allow the inmate to 8 speak with their attorney? 9 A. Absolutely. 10 Q. I was just trying to make sure the 11 distinction was there because I got a little 12 confused. 13 And then finally -- and maybe we can go 14 back to Exhibit 6 that you answered questions 15 about. 16 A. That's going to be up here somewhere. 17 All right. 18 Q. I don't have Exhibit 6 in front of me 19 but I believe one of the pages is a disciplinary 20 offense report -- 21 A. Uh-huh. 22 Q. -- authored by Sergeant Waliser. And 23 one of the pages is the Major Rule Infraction 24 Report. Thank you. 25 A. Uh-huh.</p>

<p style="text-align: right;">Page 98</p> <p>1 Q. And Mr. Biddulph pointed out that on the 2 disciplinary offense report, the bottom left corner 3 it lists inmate witnesses as Michael Fuchs, do you 4 see that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. And then on the Major Rule Infraction 7 Report where it leaves a blank for witnesses, 8 nothing is written; do you see that?</p> <p>9 A. Uh-huh, yes.</p> <p>10 Q. If an inmate witness is listed on the 11 disciplinary offense report, is that different than 12 listing them under the Major Rule Infraction Report 13 and how so?</p> <p>14 A. It can be. I'm trying to remember -- excuse me, but I'm just trying to remember how this worked. It's so many years ago. Typically they're given -- so this -- let me just jump ahead real quick. The disciplinary offense report, this is just a copy of the report that the inmate gets, okay? The inmate is not required to -- I mean I know there's a spot for their signature up there. They are not required to sign this and give it back to the -- if they don't want to sign it, they don't have to. But this is given to them, the Major Rule Infraction Report and</p>	<p style="text-align: right;">Page 100</p> <p>1 might decline a request?</p> <p>2 A. It can be a number of things. It can be 3 based on the history of that inmate with basically 4 maybe his number of write-ups. Maybe he's 5 currently on lockdown for a separate incident that 6 he wasn't even in there for and they just want 7 their best buddy at the report -- or at the 8 hearing, excuse me. So there's a whole list of 9 things. They could have asked for -- a lot of 10 times it is their friend who is in the same pod as 11 them that is just, you know, kind of -- he was in 12 the area so I'll ask him to come and he'll say 13 something on my defense. Sometimes it's somebody 14 that all of the sudden that inmate has been 15 spending a lot of time with. That's something 16 that's kind of out of the ordinary for us so we pay 17 attention to those things because those typically 18 don't add up when you're going to hold a hearing, 19 especially for a serious one where -- this one here 20 is serious, it's for fighting, which typically 21 inmates get 15 to 30 days for. Now it's 15 to 30, 22 back then it was even longer, so. So there is a 23 number of reasons where they can be declined.</p> <p>24 Q. And then final question: On a document 25 such as the Major Rule Infraction Report or a Major</p>
<p style="text-align: right;">Page 99</p> <p>1 that's what tells them there's going to be a 2 hearing and here I even put there's a hearing on 3 February 26, 2015, the time was to be determined. 4 Just because they put the witnesses on the 5 disciplinary offense report, this isn't a sheet 6 that they turn back in to the disciplinary officer 7 or whoever that hearing officer might be. So 8 that's where this might have been misconstrued as 9 having Mr. Fuchs on there.</p> <p>10 Q. So would it be fair to say that the 11 Major Rule Infraction Report is an inmate's 12 opportunity to list what witnesses they want?</p> <p>13 A. Again, without me being actually 14 officially on the disciplinary team at that time, 15 this is my recollection. I do believe this was 16 their opportunity to put that inmate witness down, 17 but as I said, that's my -- that's my memory 18 serving, but I'm not 100 percent on that. So if I 19 can just -- a little leeway on that, I do not 20 recall 100 percent on that.</p> <p>21 Q. Sure. I think you testified that even 22 if a witness is listed or requested by an inmate, 23 it may be declined by the disciplinary team?</p> <p>24 A. They can be, yes.</p> <p>25 Q. What are the circumstances that they</p>	<p style="text-align: right;">Page 101</p> <p>1 Rule Infraction Report Hearing, for example, I 2 think one of them from the April hearing just had 3 your signature?</p> <p>4 A. Uh-huh.</p> <p>5 Q. Does that mean that you were the hearing 6 officer or are you able to sign that on behalf of 7 somebody else?</p> <p>8 A. I'm able to sign that on behalf of them.</p> <p>9 Q. Okay.</p> <p>10 A. Just to clarify, are you talking about 11 this sheet, the Major Rule Infraction Report?</p> <p>12 Q. I'm talking about, yeah, that and I 13 don't know what exhibit it is, but.</p> <p>14 A. Okay. So just this sheet of paper; is 15 that correct?</p> <p>16 Q. Correct.</p> <p>17 A. Okay.</p> <p>18 Q. And a Major Rule Infraction Report 19 Hearing, which looks like they're separate 20 documents here.</p> <p>21 A. Oh, okay. I see it here. The one with 22 the Miranda on it?</p> <p>23 Q. Correct.</p> <p>24 A. Okay.</p> <p>25 Q. So if your signature is the only one</p>